

UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS

UNITED STATES OF AMERICA)
)
 v.) Cr. No. 07-10289-MLW
)
 DARWIN JONES)

ORDER

WOLF, D.J.

April 11, 2013

Defendant Darwin Jones has moved to vacate his conviction, by guilty plea, because the sole evidence that the substance alleged to be a controlled substance that he possessed with intent to distribute in violation of 21 U.S.C. §841(a)(1) was a certificate issued by chemist Annie Dookhan, who is now being prosecuted for alleged misconduct in performing tests of seized substances. In response to an April 4, 2013 Order, the parties have reported that:

1. The Motion to Vacate.

The government has reviewed the facts of this case and based on the involvement of Annie Dookhan, the absence of any untested drugs, and other surrounding circumstances, does not oppose that Motion to Vacate and the entry of an order vacating the June 6, 2009 Judgment of Conviction.

2. Pending Supervised Release Revocation Matters

The government has consulted with Probation regarding the impact of the allowance of the Motion to Vacate on any pending supervised release revocation matters. Both the government and Probation believe that, upon allowance of the Motion to Vacate, all supervised release matters should be dismissed as well. The defendant does not object to the dismissal of these matters.

In view of the foregoing, the parties believe that it is unnecessary for the Court to conduct the hearing scheduled for April 15 and jointly request (with Probation's assent) that the hearing be cancelled.

Status Report in Response to Order of April 4, 2013. The court finds the recommendation of the parties and Probation to be persuasive.

Therefore, it is hereby ORDERED that:

1. The defendant's Motion to Vacate Conviction and Withdraw Plea (Docket No. 129) is ALLOWED and the June 6, 2009 Judgment of Conviction is VACATED.
2. The pending petitions to revoke supervised release are DISMISSED.
3. This case is DISMISSED.
4. The previously scheduled April 15, 2013 hearing is CANCELLED.

/s/ Mark L. Wolf
UNITED STATES DISTRICT COURT